

DISTRICT OF COLUMBIA, DEPARTMENT OF EMPLOYMENT  
SERVICES,

COMPENSATION REVIEW BOARD

Dir. Dkt. No. 99-97

ROBERTA WEST,  
Claimant,

v.

WASHINGTON HOSPITAL CENTER,  
Self Insured Employer.

OHA No. 99-276 OWC No. 281706

DISMISSAL ORDER OF THE DIRECTOR

This matter is before the Director for consideration of Claimant's Motion to Dismiss Employer's Application for Review.

On November 9, 1999, Hearing Examiner Russell issued a Compensation Order in this matter and Employer filed an Application for Review that was received in the Office of the General Counsel on December 15, 1999.

D.C. Code § 36-322(b)(2) requires that an Application for Review must be filed within 30 days from the date that a Compensation Order is filed. Since Employer's appeal was received after the 30 day time limit, Claimant contends that the Application for Review should be dismissed.

In response, Employer asserts that the appeal should not be dismissed, contending that the mailing of the Application for Review satisfies the requirement of filing. Since Employer mailed the Application for Review on November 9, 1999, Employer contends that the appeal is timely.

Initially, the Director must make it clear that Employer's assumption concerning the mailing of the appeal is erroneous. An Application for Review must be received within 30 days for it to be timely and the time requirement is not satisfied by mailing the appeal within 30 days. *Johnny Williams v. Town Center Management*, Dir. Dkt. No. 97-39 (August 27, 1997); *Washington Hospital Center v. Department of Employment Services*, No. 98-AA-490 (D.C. 1999). Thus, it would appear that Employer's appeal must be dismissed as untimely.

However, Employer's counsel has submitted an affidavit of a paralegal, responsible for helping prepare the Application for Review, who certifies that she spoke to an employee in the Office of the

General Counsel who told her that mailing constituted an appropriate filing, rather than the date of receipt. This information is incorrect. In this case, the employee in this office recalls the conversation and believes that there was some misunderstanding surrounding the nature of the inquiry. Since Employer detrimentally relied on erroneous information, the Director, in this case only, will accept Employer's appeal as timely. However, the Director must again emphasize that for an Application for Review to be timely, it must be received within the 30 day time limit.

Accordingly, for the reasons more fully set forth above, Claimant's Motion to Dismiss Employer's Application for Review is hereby DISMISSED. Claimant should file her response to Employer's Application for Review within 30 days of the date of this Order for it to be timely.

Gregory P. Irish  
Director

March 30, 2000  
Date